

REMARKS

In the Office Action dated September 27, 2001, the claims were rejected under 35 U.S.C. §103(a) as being unpatentable over Lefkowitz et al., U.S. Patent No. 4,524,348 in view of Capper et al., U.S. Patent No. 5,288,078. Applicant has examined the Examiner's rejections and has studied the cited art. Applicant respectfully traverses the rejection.

Rejection

Claims 1 - 16 were rejected under 35 U.S.C. §103(a) as being unpatentable over Lefkowitz in view of Capper. Applicant has reviewed the Examiner's rejection and submits that the claims are in condition for allowance.

For an 35 U.S.C. §103 obviousness rejection to prevail, there must be some teaching, suggestion, or incentive supporting the combination with the Prior Art. *ASC Hospital Systems, Inc. v. Montefiore Hospital*, 732 F.2d 1572 (Fed. Cir. 1984). Lefkowitz is directed toward a control interface between a physical object and a machine. Movement of the physical object in the defined field is sensed, and signals corresponding to such movement are received and produce an input signal to the machine (Abstract). To sense the field, an antenna is implemented as a plate-like structure (Col. 5, lns. 5-8). Signals representative of these sensed movements are sent through cables and/or conductors (Col. 5, lns. 30-36 and Col. 3, lns. 45-49). The plate like structures do not contact any other plate like structure and always have a gap between the structures (Col. 5, lns. 53-56). Nothing in Lefkowitz discloses, teaches or suggests the invention as described by the claims of the current application. Nothing in Lefkowitz discloses teaches or suggests one or more arrays connected to one or more surfaces, wherein said conductor array comprises two or more conductors. Further, nothing in Lefkowitz discloses, teaches or suggests a converter that translates the sensed movement into three-

dimensional vector data and a controller that correlates said three-dimensional vector data into control movement.

Capper is directed toward an invention implementing infrared transceivers (T1 and T2) in a line to locate an object in a field (Abstract). Capper discloses “[u]sing a third such transceiver mounted out of line connecting T1 and T2 one can determine three dimensional spacing ...” (Col. 4, lns. 44-48). The Examiner stated that “Capper et al teach a converter seen in figure 6C which is capable of translating movement into three-dimensional vector data as claimed.” (Paragraph 3 of Office Action). Applicants respectfully submit that Capper fails to disclose, teach or suggest such a converter. Capper discloses that a signal received by the phototransistor can be directly applied to an analog to digital converter as shown in FIG. 6C. The output of the analog to digital converter is applied to a processor which can digitally remove extraneous spurious signals and operate on the desired signal as necessary. (Col. 8, lns. 52-58). Nothing in Capper discloses, teaches or suggests a converter that translates the sensed movement into three-dimensional vector data and a controller that correlates said three-dimensional vector data into control movement. Capper does not address the functions of the converter and does not disclose, teach or suggest any system or method to translate movement into three-dimensional vector data.

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference must teach or suggest all the claim limitations. (MPEP §706.02(j)). Based upon these criteria, no prima facie case of obviousness is established. There is no motivation or suggestion within the

references to combine the references as proposed by the Examiner. Capper is directed toward a infrared transceiver/transmitter system and Lefkowitz implements plates to sense movement. Nothing in either patent suggests the combination of their disclosures. Further, the prior art references must teach each and every element of the claimed invention. As discussed previously, multiple elements of the broadest claims are not disclosed, taught or suggested by Lefkowitz, Capper and/or Lefkowitz in view of Capper. Therefore, the prima facie case of obviousness is not met and the invention as described in Claims 1-16 distinguishes over the cited art.

The Examiner further states that "Capper et al do not teach a converter which determines the change in voltage in the dielectric area but it would have been obvious to one of ordinary skill in the art to utilize the converter taught by Capper et al." Applicant respectfully submits that nothing in the prior art cited teach, disclose or suggest such a converter and no art has been cited by the Examiner to provide a basis for such an assumption. The Examiner also states that "Capper et al do not teach a converter which determines the change in frequency but it would have been obvious to one of ordinary skill in the art to utilize the converter taught by Capper et al." Applicant respectfully submits that nothing in the prior art cited teach, disclose or suggest such a converter and no art has been cited by the Examiner to provide a basis for such an assumption. The Examiner also states that "Capper et al do not teach a converter which provides circuitry that heterodynes said frequency with a fixed oscillator but it would have been obvious to one of ordinary skill in the art to utilize the converter taught by Capper et al." Applicant respectfully submits that nothing in the prior art cited teach, disclose or suggest such a circuitry and no art has been cited by the Examiner to provide a basis for such an assumption.

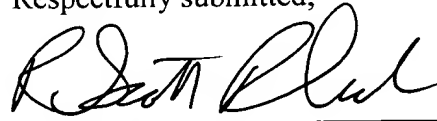
Therefore, based upon the reasons stated herein, Applicant respectfully requests withdrawal of the 35 U.S.C. §103 obviousness rejection and submit that Claims 1-16 are in condition for allowance.

CONCLUSION

Applicant submits that Claims 1- 16 are in condition for allowance. Reconsideration of Claims 1 - 16 is earnestly solicited.

The Commissioner is further authorized to charge any additional fees required to deposit account 19-4547. A telephone call to the below-signed attorney is invited if it would speed allowance or clarity of any argument.

Respectfully submitted,

 1/25/02

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the Specification

-- This application is a continuation application of U.S. Patent No. 5,990,865 [App. Ser. No. 08/778,978, filed January 2, 1997, now U.S. Pat. No. _____], which is incorporated by reference for all purposes into this application. --

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